

DOCUMENT RESUME

ED 396 884

RC 020 630

AUTHOR Lawton, Stephen B.
TITLE The Impact of Gaming Revenue on American Indian Education: A Case Study.
INSTITUTION Ontario Inst. for Studies in Education, Toronto. Dept. of Educational Administration.
PUB DATE Mar 93
NOTE 22p.; Paper presented at the Annual Conference of the American Education Finance Association (Albuquerque, NM, March 19-21 1993).
PUB TYPE Reports - Research/Technical (143) -- Speeches/Conference Papers (150)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Adult Education; *American Indian Education; American Indian History; Canada Natives; *Educational Finance; Elementary Secondary Education; Federal Indian Relationship; Federal Legislation; Government Role; Reservation American Indians; *Sioux (Tribe); *State Regulation; *Tribal Sovereignty
IDENTIFIERS Casinos; *Gambling; Indian Gaming Regulatory Act 1988; Minnesota; *State Tribal Relationship

ABSTRACT

This paper reviews historical and legal factors contributing to the development of gaming as a source of tribal revenue, and assesses the impact on education from revenue generated from the Mystic Lake Casino near Minneapolis, Minnesota. Corporate shareholders of the casino are members of the Shakopee Mdewakanton Sioux Community. Although U.S. law supports the status of Indian tribes as sovereign nations, the state of Florida took the Seminole tribe to court after the tribe opened a bingo parlor in 1976. In this case and a similar case in California, the Supreme Court upheld the rights of reservation American Indians to establish their own ordinances for regulating bingo games, but dissenting justices argued that unless Congress authorized and regulated tribal gaming, the State had a legitimate law enforcement interest. As a result, in 1988 Congress passed the Indian Gaming Regulatory Act to assist tribes in regulating gambling. Soon thereafter, the Minnesota Indian Gaming Association was established and reached an agreement with the State concerning gaming regulations. Monies generated from the Mystic Lake Casino have funded an after-school program, a cooperative education program, an advocate for students, an alternative school for students with special needs, and adult education training programs. Currently, Canada's First Nations are fighting the provincial government of Saskatchewan to allow a casino to remain open on the White Bear Reserve. Although the future of tribal gaming is uncertain in Canada, developments in the United States could establish a precedent regarding tribal gaming. (LP)

* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *

**THE IMPACT OF GAMING REVENUE ON
AMERICAN INDIAN EDUCATION: A CASE STUDY**

Stephen B. Lawton

**The Ontario Institute for Studies in Education
252 Bloor Street West, Toronto, Ontario M5S 1V6
(416) 923-6641 Fax: (416) 926-4741**

**Paper prepared for the annual conference of the American Education Finance
Association, Albuquerque, NM, March 19-21, 1993**

Abstract

This study assesses the impact of revenue from a gambling casino on the education of one tribal band in the United States. Specific questions addressed are: 1) What is the legal and administrative framework that gave rise to the development of the casino? 2) Who funds the education of the tribal band; specifically, what revenue flows directly and indirectly to education from the band's casino operation? 2) How has gaming increased, if at all, the funds available for education? Has increased revenue been offset, in part or in whole, by the loss of income from other sources? 3) What types and levels of education are funded by various sources of funds? 4) What effects has gaming had on curriculum (e.g., job training, use of the native language, etc.) at either the high school or adult education levels? 5) What are the implications of this tribal band's experience for other Indian groups in the United States and Canada.

Findings indicate that historical and legal factors played a major part in explaining the development as gaming as a source of tribal revenue; in the case at hand, it has facilitated the development of a more autonomous and healthy Indian community. Implications for Canada's First Nations are uncertain due unresolved legal and political issues, but the developments in the United States are inspiring native peoples in Canada to follow a similar path.

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION
CENTER (ERIC)

☒ This document has been reproduced as
received from the person or organization
originating it.

☐ Minor changes have been made to improve
reproduction quality.

• Points of view or opinions stated in this docu-
ment do not necessarily represent official
OERI position or policy.

PERMISSION TO REPRODUCE AND
DISSEMINATE THIS MATERIAL
HAS BEEN GRANTED BY

Stephen B
Lawton

TO THE EDUCATIONAL RESOURCES
INFORMATION CENTER (ERIC)

BEST COPY AVAILABLE

THE IMPACT OF GAMING REVENUE ON AMERICAN INDIAN EDUCATION: A CASE STUDY

Stephen B. Lawton
The Ontario Institute for Studies in Education

Paper prepared for the annual conference of the American Education Finance
Association, Albuquerque, NM, March 19-21, 1993

The Minnesota Sioux, the four Dakota subtribes known as the Santee, had signed a treaty in 1851. They felt cheated by the treaty and were cheated in their reservation life, and in the summer of 1862 they tried to kill all the whites in their country, under the leadership of one of their chiefs, 60-year-old Little Crow. They murdered some 700 settlers and killed 100 soldiers before they were driven out of Minnesota to join the other Dakotas on the plains. Several dozen Santee chiefs and warriors were hanged. Fugitive Little Crow, foraging for berries, was shot by a farm youth. . . (AH, p. 344)¹

Three days after Christmas in 1890 a unit of the Seventh Cavalry arrested a band of 250 or 350 Hunkpapa Sioux that an officer thought might be suspect, two-thirds of them women and children. The Indians were held overnight, camped in the center of a ring of 500 cavalymen. Four Hotchkiss guns were set up and carefully sighted in on the Sioux camp. In the morning the troops formed a hollow square with the Indian camp in the middle and disarmed the Sioux men, who were called out from the others to form a line. Somehow, a disturbance began. It is said that someone fired a shot. In any case, the troops quite suddenly opened an intensive fire at point-blank range into the Sioux camp. The Sioux men seems to have been shot down first, and most of them finished off at once or in a few minutes, although enough people attacked the soldiers with their bare hands or what weapons they still had or could seize to kill 29 soldiers. But the shooting

went on as long as anyone, woman or child, remained to be shot at. The rapid-firing Hotchkiss guns may have terrified the people more than the simple fact of death. Some of the women pursued as far as three miles over the plains before they were caught and killed. A few are said to have escaped. (AH, p. 348)

One of the first to reach the scene of the Wounded Knee massacre was Dr. Charles Eastman, Santee Sioux graduate of Dartmouth and the Boston University medical school, then serving as government physician to the Pine Ridge, South Dakota, Agency: he described, quite dispassionately, the way young girls had knelt, and covered their faces with their shawls so they would not see the troopers come up to shoot them. (AH, p. 405)

Something more than the fighting ended at Wounded Knee. Much of the Plains Indian's spirit, pride, and hope died there, too, escaping like a puff of warm breath into the bitterly cold air of a winter day. (AH, p. 371).

"You have to understand our history--what has happened in the past 200 years--to understand current issues," explained the Chairman of the Board of Directors of Little Six, Inc., which owns and operates the Mystic Lake Casino 20 miles outside of Minneapolis, Minnesota.² Little Six, Inc. is a corporation whose shareholders are the Shakopee Mdewakanton Sioux Community located in Prior Lake, Minnesota. I had expected to begin the first of my five research questions: What is the legal and administrative framework that gave rise to the development of the casino?

"The Sioux, as with other native peoples, lived a communal life, off of the land but harmonious with the land. Native values and culture did not prepare them for capitalism, which is based on very different assumptions: property is held privately rather than communally; the environment is exploited rather than care for; etc."

The question was not if the buffalo would vanish, but when. Some thought soon; some thought not for 100 years. It was the former who usually associated themselves with the treaty factions, anxious to make a deal for the sale of land and mineral rights that would

subsist their people through the coming time of change." (AH, p. 343)

"According to my mother, who spoke Sioux," the Chairman continued, "Little Crow led a delegation of 26 chiefs to Washington in the 1850s to 'negotiate' at Washington's insistence. He felt he had no choice; others felt he sold out. The Santee Sioux, which had occupied the southern half of today's Minnesota, received 10 miles on both sides of the Minnesota River. But dissatisfaction persisted; Minnesota was admitted to the Union as a state in 1858; and pressure built. The 1862 uprising resulted, and in response the U.S. abrogated earlier treaties and the Santee lost most of their land."

"As a result of what happened--being uprooted, decimated by disease and war--native people suffered from a collective case of "post trauma stress", much like many veterans of the Viet Nam war. Those living in settled communities ceased to have work--there were no buffalo to hunt and there were restrictions on hunting and fishing. These changes particularly affect the male role, but also created a dilemma for mothers. What were their children being raised for? Alcohol became a problem--it was not a part of native tradition in North America as it was on other continents."

It was not a king, nor Christianity, nor knighthood gone adventuring, that muscled the conquest of the Atlantic seaboard north of Florida. It was the joint-stock company. The joint-stock company was organized and operated simply for profit and nothing but profit, and recognized no other purposes, higher, lower, or in between. This attitude was the foundation of the colonial Indian policy in non-Spanish North America" (AH, p. 166).

"In order to survive and adapt," the Chairman continued, "it has been necessary for Indians to develop a semi-capitalist stance toward the world; in most cases they no longer can they live by nature. It is a problem of survival. Initially, a dependence relationship was formed with government; the people who were most successful were those active in the political arena, a development that created stresses within native communities. Education was lacking, the relationship was paternalistic, and there were few political skills to deal with problems within communities. In this tribes case, changes began to take place when bingo opened up a new way of life."

Bingo! A game we have all played as children became the cornerstone of a new breath of life for Indian communities across the United States. Most, but not all, of the Plains Indian's spirit, pride, and hope died at Wounded Knee that day in 1890. How is it, that a simple game of chance has become a key to the restoration of dignity and hope for a future for U.S. Indians. And why is it that their Canadian cousins hope that their governments will emulate that of the U.S.?

The 51st State?

They are--those who retain reservation affiliations--federal citizens, so to speak, and the domain of the Bureau of Indian Affairs is, in a sense, an extra state scattered piecemeal over the face of the country. In this shadow-state all services--roads, schools, courts--are furnished either by the Federal government or the tribal organizations themselves. In the aggregate this shadow-state is somewhat larger in area than Nebraska or South Dakota, and considerably larger in population than Nevada or Alaska.

[They] do not pay taxes on the land or the income therefrom. Those on the rolls of the Bureau of Indian Affairs are, in most matters, under federal jurisdiction rather than state and county jurisdiction. In these respects Indians are "wards" of the United States. The sense of the term, particularly in modern times, means protection: the United States, in return for value received, has guaranteed to protect various Indian peoples from local political discrimination or interference--such as the interference of Alabama, Mississippi, and Georgia that drove out the Five Civilized Tribes. For many reasons, most Indians feel they need this federal protection; state and local jurisdictions have too often shown a tendency to gnaw away Indian holdings when they could get at them (AH, p. 411).

The legal status of Indians living on reservations is complex; there are 505 reservations in the United States (and about 250 reserves in Canada), each created by a unique treaty or agreement. There are over 4,000 federal laws relating to Indians in the U.S. The fundamental principle is that of all Indians' inherent right of self-government; Indians hold, and U.S. law tends to support, the status of Indian tribes as sovereign nations that have entered into agreement with the government of the United States. In practice, terms

such as quasi-sovereign or dependent nation are more descriptive of the actual situation, although fact should not be confused with legal or moral principal. In Canada, where constitutional recognition of their inherent right of self-government is sought by Indians, their own preferred reference to themselves In English is as the people of the First Nations, a terminology which emphasizes a belief and commitment to their tribes as sovereign bodies.

The legal and *de facto* treatment of Indian tribes by the U.S. government has varied greatly during the past two centuries. The U.S. Constitution makes just two references to native peoples. Article I Section 2.2 apportions representatives among the states according to the number of "free Persons . . . excluding Indians not taxed" and Article I Section 8.4 states that "The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." But it also states in Article IV Section 2.3 that "no new State shall be formed or erected within the Jurisdiction of any other State . . . without the Consent of the Legislatures of the States concerned as well as of the Congress," so the answer to the question posed in the section heading is in the negative.

Federal protection of a distinct status for Indian was, initially, federal policy. However, with the assumption of the Presidency by Andrew Jackson, matters changed. The States of Georgia, Alabama, and Mississippi passed laws imposing state legislation Indian lands, and act that led to the removal of the Five Civilized Tribes (the Seminole, Cherokee, Chicksaw, Creeks, and Choctaw) from these states to what later became Oklahoma. Opposing the action, the "Cherokee pursued a legal fight until they won their case in the United States Supreme Court, Chief Justice John Marshall delivering with the opinion a blazing denunciation of the wrongs perpetrated by the state of Georgia upon the Indians. The Supreme Court found the acts of the state of Georgia unconstitutional and in violation of solemn treaty rights. The decision was wildly celebrate in the Cherokee nation. . . . However, President Jackson refused to execute the decision of the court" (AH, p. 227).

When the Indians controlled the balance of power, the settlers from Europe were forced to consider their views, and to deal with them by treaties and other instruments. . . . But when the American Indians lost their power, they were placed on reservations, frequently lands which were strange to them, and the rest of the nation turned its

attention to other matters.

Our treatment of Indians during that period still affects the national conscience. We have been hampered--by the history of our relationship with the Indians--in our efforts to develop a fair national policy governing present and future treatment of Indians under their special relationship with the Federal government.

... America has much to learn about the heritage of our American Indians. Only through this study can we as a nation do what must be done if our treatment of the American Indian is not to be marked down for all time as a national disgrace" - John F. Kennedy (AH, Introduction, p. 7).

Exercise of Rights

"Indian gaming got its start in 1976 in Florida with the Seminoles," the Chairman explained. "A management company, Pan American, suggested the possibility; looking into Indian and state law, the company suggested that Indians did not have to follow the state law limiting bingo jackpots to \$500--so the Seminoles set their's at \$10,000! The State took them to court, but the district court ruled in the Indian's favor. The decisive case, though, involved the Cabazon Band of Mission Indians in California, which set up a bingo parlor managed by the same outside group. That case went to the Supreme Court--and the natives won."

The Cabazon and Morongo Bands were sued by the County of Riverside and the State of California (783 F.2d 900 (9th Cir. 1986); 107 S.Ct. 1083 (1987)), claiming that state and local gambling laws apply on Indian reservations.

According to the 9th Circuit Court decision, "The Tribes occupy separate reservations situated in Riverside County, California. The Tribes conduct bingo games for profit on their reservations. The profits are the sole source of income for the Tribes and the games provide the main source of employment. The Tribes have their own ordinances regulating the bingo games. The games re operated by non-Indian professional operators, who receive a percentage of the profits. The games are played predominantly by non-Indian participants. The jackpots exceed \$20. Under California law, bingo games may be played only for bona fide charitable purposes; the games must be operated by members of the charitable organization; and the jackpots

cannot exceed \$250. The Tribes's bingo games violate these provisions."

In the complex argument that followed, the Court noted, first, that "there is apparently no federal law preempting the determination of the applicability of state and local gambling laws on Indian reservations. Therefore, federal law does not create a barrier to the application of state and local gambling laws on reservations. However, . . . "[t]he role of inherent tribal sovereignty in preemption analysis is defined by 'notions of sovereignty that have developed from historical traditions of tribal independence' When we determine that tradition has recognized a sovereign immunity in favor of the Indians . . . , then we usually are reluctant to infer that Congress has authorized the assertion of state authority. . . ." (p. 904). In their analysis, they concluded that the state's interest, primarily concerned with the intrusion of organized crime, was weak, but that the federal interest was strong. "Current federal policy is to encourage and foster tribal self-government and to promote reservation economic development."

It is important to the concept of self government that tribes reduce their dependence on federal funds by providing a greater percentage of the cost of their self government.

President Ronald Reagan, *Statement by the President: Indian Policy*, The White House, January 24, 1983.

In upholding the earlier decisions, the Supreme Court concluded, the the risk of organized crime, "does not justify state regulation of the tribal bingo enterprises in light of the compelling federal and tribal interests supporting them. State regulation would impermissibly infringe on tribal government, and this conclusion applies equally to the county's attempted regulation of the Cabazon card club." In its judgement, the Court found state laws to be civil/regulatory rather than criminal in nature. As a shorthand test, one asks "whether the conduct at issue violates State's public policy" (p. 1083). In this case, state law allowed bingo games in other circumstances, so the Court concluded State policy was not prohibition of gambling but regulation thereof.

A colorful dissenting opinion by Justice Stevens supported by Justices O'Connor and Scalia argued, "While gambling provided needed employment and income for Indian tribes, these benefits do not, in my opinion, justify tribal operation of currently unlawful commercial activities. Accepting the

majority's reasoning would require exemptions for cockfighting, tattoo parlors, nude dancing, houses of prostitution, and other illegal but profitable enterprises. As the law now stands, I believe tribal entrepreneurs, like other who might derive profits from catering to non-Indian customers, must obey applicable state laws. . . . To argue that the tribal bingo games comply with the public policy of California because the State permits some other gambling is tantamount to arguing that driving over 60 miles an hour is consistent with policy because the State allows driving at speeds up to 55 miles an hour. . . . I am unwilling to dismiss as readily as the Court does the State's concern that these unregulated high-stakes bingo games may attract organized criminal infiltration. . . . In my judgment, unless Congress authorizes and regulates these commercial gambling ventures catering to non-Indians, the State has a legitimate law enforcement interest proscribing them" (p. 1097).

Congress Acts

"There was a consensus that federal oversight was needed to ensure that others did not take advantage of Indians," the Chairman explained. "And, if gambling was coming to a state, it was clear that the state did have a legitimate interest in ensuring that adequate controls were in place to provide for fair games and to keep organized crime out. By this time, the National Indian Gaming Association had been formed. I was elected secretary-treasurer, and later became the chairman. We set up a task force to provide advice to the Senate Select Committee on Indian Affairs and the Insular and Internal Affairs Committee of the House. Initially, we hit a brick wall."

"While Senator Boschwitz of Minnesota, who sat on the Senate Select Committee on Indian Affairs, endorsed the idea of gaming on Indian reserves as a form of economic development, Senator Inouye of Hawaii, Chairman of the Committee, stated he would never accept slot machines in Indian country--and slot machines were generating 40 per cent of the total revenue at the time."

"The Indian Gaming Association had two years--the term of one Congress--to get the language right. We had to agree among ourselves and get Congress to agree. There was a consensus to protect bingo, and even Las Vegas supported that. Here," the Chairman continued, "we had video roulette, and wanted to protect that. Some reservations had blackjack and wanted that protected, while others would have been satisfied with bingo alone. We provided supporting materials for card games and video games" [but not those

involving dice]. It went down to the wire; the bill was passed, but with time limits for compacts to be signed between Indian tribes and the states in which they were located. So, for me, the focus changed from Washington to Minnesota."

Passage of the Indian Gaming Regulatory Act (PL 100-497) in 1988 was by no means a foregone conclusion. One can speculate that without the regulatory vacuum created by the Supreme Court's decision in the *Cabazon* case, it would have died with the end of the 100th Congress. Interestingly, the bill fulfills the requirement set forth in the dissenting opinion of Justice Stevens-but perhaps that was his intention.

The bill is prefaced with the findings of Congress: 1) that tribes were in fact generating revenue from gaming on reservations, 2) that Federal courts have held that management contracts, like those signed by tribes with business that actually run many gaming operations, require approval of the Secretary of the Interior, 3) that existing Federal law did not regulate the conduct of gaming on Indian lands, 4) that the principal goal of Federal Indian policy was to promote "tribal economic development, tribal self-sufficiency, and strong tribal government", and 5) that Indian tribes have exclusive right to regulate gaming if it is not prohibited by Federal law and is conducted within a State that does not, as a matter of criminal law and public policy, prohibit such gaming activity.

The purposes of the Act were "(1) to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and a strong tribal governments; (2) to provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and the players; and (3) to declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue" (p. 2467).

The Act recognizes three classes of gaming: class I gaming "means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as part of, or in connection with, tribal ceremonies or celebrations. Class II gaming means "the game of chance commonly known as bingo (whether or not electronic, computer, or other technological aids are used in connection therewith" and "card games that are explicitly authorized by the laws of the State or that are not explicitly prohibited by the laws of the State and are played at any location in the State, but only if such card games are played in conformity with those laws." Specifically excluded are banking card games including baccarat and blackjack or any electronic or electromechanical facsimile of any game of chance. However, certain exceptions were made to the latter. Card games played in Michigan, North Dakota, South Dakota or Washington that were played before May 1, 1988 or any other state where 1) such games were operating on May 1, 1988. 2) the Indian tribe requests, within 30 days of enactment, a Tribal-State compact be negotiated, and 3) that concludes such an agreement within one year of enactment. Class III gaming means all forms of gaming that do not fall into Classes I and II. Class III gaming is permitted if it is permitted by Tribal ordinance and the State in accord with a Tribal-State compact, and is approved by the Chairman of the National Indian Gaming Commission.

The Act, as noted, creates a National Indian Gaming Commission, which is composed of three members, two of whom are Indian, to monitor gaming operations on Indian land. The Commission is funded from fees paid by tribal gaming operations. Audits of funds and contracts are provided for, as is the background inspections of all employees of gaming enterprises. At least 70 per cent of net revenue must go to the tribe; that is, a management fee cannot exceed 30 per cent of net revenue, except in exceptional circumstances in which it may be as high as 40 per cent. As well, the Commission has investigative powers and the authority to levy and collect appropriate civil fines.

Any tribe and any Indian tribe may enter into a Tribal-State compact. If an Indian tribe requests that a state enter into negotiations, "the State shall negotiate with the Indian tribe in good faith to enter into such a contract." States may be provided an assessment to cover their costs of managing such a compact, but they must be comparable to amounts assessed by the state for similar activities carried out elsewhere.

The Act restricts use of net revenue from gaming operations for five purposes: 1) to fund tribal government operations or program, 2) to provide for the general welfare of the Indian tribe and its member, 3) to promote tribal economic development, 4) to donate to charitable organizations, or 5) to help fund operation of local government agencies. Per capita payments to tribal members are subject to Federal (but not state) taxation.

Implementing the Act

On the reservation, the tribe had had a smoke shop that sold made a profit from the rebate of state and federal taxes. When it first became involved in gaming 1982, it negotiated a contract with an outside operator; initial funding for a bingo parlor was raised from the rebated cigarette taxes. However, the contract was not approved by the Secretary of the Interior on a technicality, and the tribe reconsidered.

"I was part of a group that wanted self-management of the gaming operation," the Chairman recounted, "and we lobbied the case successfully. A separate corporation was set up, Little Six, Inc., to run the bingo parlor. After the passage of the Act, we had an opportunity to get more games like blackjack that employ more people if we were able to negotiate a Tribal-State compact. The Governor at the time was Rudy Perpich, who was sympathetic. But we needed more time—we needed an extension of the time. Nevada was upset, but we were successful once again."

"Some of the tribes in Minnesota were opposed to negotiating a Tribal-State compact. They said it is negotiating away our sovereignty—that we shouldn't deal with state governments at all. It's understandable; how many times have treaties been made and not honored? But we felt the state had a legitimate interest—concerns about organized crime, the protection of people, and the fairness of games. In the end, the Minnesota Indian Gaming Association was set up and reached agreement with the state. Many other signed on at the time; others have later developed their own compacts. Minnesota agreed to allow video games on reservations, even though they're not allowed elsewhere in the state."

The ascendancy of the chief was a phenomenon that accompanied European invasion everywhere. The Europeans needed some one responsible official to deal with in Indian negotiations, and if no real

chief existed, as was usually the case, they invented one. Sometimes the fictitious power thus invested in these 'treaty chiefs' was accepted by the other Indians and became actual. More often it led to discord (AH, p. 218).

Building a Casino

Two hundred years ago, the villages of the Mdewakanton band of the Dakota (Sioux) people dotted the shores of Mde Wakan, the lake that is today called Mille Lacs. Continual warfare drove the Mdewakantons or "Water Spirit People" out of their homeland south to the Minnesota River Valley. . . . In 1862, their lives would be changed forever by the Dakota Conflict. Betrayed by broken treaties and threatened by the relentless need of the European settlers for more land, the Mdewakantons entered into a war they could not win. In just a few short month, the United States defeated the mdewakanton people, hung their leaders and relocated them outside Minnesota. The few who remained or drifted back were stripped of tribal land and self-sufficiency and lived in the tattered remains of their culture for over a century. . . .

In 1983 . . . the Shakopee Mdewakantons initiated high stakes bingo on reservation land . . . [which returned] economic self-sufficiency after a century of struggle. . . . [In] 1991, the Mdewakantons embarked on an unparalleled venture--the construction of a gaming facility which would rival Las Vegas Their dream for the future remembered the past, the place where they began . . . Mde Wakan or Mystic Lake." (SE-MLC).³

"We toured the United States and Europe, looking for the best casino and bingo halls," the Chairman continued. "In England, many old theatres had be converted to bingo halls; these had a social atmosphere others did not have. Holland had the best facilities. These ideas were incorporated by the architect into the Mystic Lake Casino."

The Mystic Lake logo has been created with care to symbolize Little Six, Inc. and its businesses while presenting the heritage of the Shakopee Mdewakanton Sioux people and all Indian people with respect and dignity. The complete symbol consists of seven distinct

elements recognizing the seven tribes of the Sioux Nation.

The seven symbols: the Eagle, the Tree, the Turtle, the Outstretched Hand, the Buffalo, the Diamond, and Water. The buffalo at the centre of the logo "is also at the center of Dakota (Sioux) life. The buffalo was the mainstay of ancient Indian cultures, meeting many of the needs of life. Today, the buffalo is a 'new economy' again meeting the need of Indian people for self-sufficiency (SE-MLC).

The casino's 138,000 square feet was designed for 10,000 visitors a day—4,000,000 in its first year. Built in little more than a year for a cost of \$15 million with \$5 million in equipment, Mystic Lake Casino has welcomed as many of 25,000 guests in a single day. Gaming equipment and activity is monitored continually by an IBM mainframe computer system and sophisticated surveillance system. The casino offers seating for 1,250 for bingo or entertainment; the 76 blackjack tables are staffed by more than 700 trained dealers and more than 400 employees 1,000 video slot machines.

Employment exceeds 2,400, over ten per cent of whom are Indian. Since the tribe has only 280 members of all ages, all who want a position are employed, and many native people are bussed in from downtown Minneapolis. It is also the largest employer of non-natives in the county.

"No liquor is served; no credit is given; and no perks are given visitors," explained the Vice President-Operations who has had 20 years of experience in Nevada and Atlantic City. "As a result, we don't have the types of problems that many people associate with gaming." Letters from the local sheriff attest to negligible impact on crime that the casino has had. That many of the clients are retired rural folk from the mid-West also helps set an comfortable atmosphere. A no-smoking wing tucked beyond the souvenir shop assures convenience for non-smokers; other preferences will be met with gourmet restaurants, a hotel, and recreation centre. Convenient automatic teller machines provide for needed U.S. cash, helpful for a Canadian visitor intent on assisting the local economy.

"This is a world-class operation," explained the head of human resources. After the Vikings and Twins [the two professional sports teams], we're the largest entertainment draw in the state. We account for 15 per cent of tourists from other states. With the opening of the Mall of America, the Twin Cities area is becoming a major national tourist destination."

Impact on Education

Having received an education on the historical, cultural, legal and administrative framework for operation of the casino, I now proceeded to address my next four research questions: Who funds the education of the tribal band; specifically, what revenue flows directly and indirectly to education from the tribe's casino operation? How has gaming increased, if at all, the funds available for education? Has increased revenue been offset, in part or in whole, by the loss of income from other sources? What types and levels of education are funded by the various sources of funds? And what effect has gaming had on curriculum (e.g., job training, use of the native language, etc.) at either the high school or adult education levels?

Mueller and Mueller (1992) review federal and Minnesota state legislation affecting American Indian students, but surprisingly omit any reference to the Indian Gaming Regulatory Act and its growing impact on Indian self-sufficiency and self-government. They do provide a detailed description of federal and state programs that complement sources of income from reserves. Castle (1992) investigates the reemergence of tribal influences on education, but again does not touch on the issue. Given these references, however, a thorough description of funds available from other levels and types of government will not be presented here.

"Before gaming, this tribe had only one source of on-reserve revenue: that from stripping copper wire for recycling," explained the Indian Education Director. "The tribe's education office consisted of one person: me. The unemployment rate was high; there was not reason for kids to complete school since there were no jobs. Today, there is a staff of nine in the Tribal Education Office. The tribe is building new community centre, which will have a pre-school day care open to both Indians and non-Indians. And there is a postsecondary scholarship fund for tribal members. We even have students in university studying abroad in Europe. As well, we have social services, a psychologist, and a home-school coordinator for kids who don't get involved."

The Education Director, a Chippewa (Ojibwa) had a masters degree from a local university and was enrolled in doctoral program. He noted the irony of

his working for the Sioux. "The Chippewa and Sioux were mortal enemies and fought over much of today's Minnesota. I took a University of Minnesota extension course on Dakota history, language, and culture that's helpful."

"Today, the tribe is introducing some of the language to pre-schoolers and are liasing with two public school systems to develop language and culture programs," the Education Director continued. "There is some state funding for this under the 1988 Minnesota Indian Education Act. School districts with 10 or more Indian students receive funds. In addition school districts get 'impact aid' from the federal government to reflect the lack of property tax revenue from Indian lands and the federal Johnson O'Malley Act provides \$95 each for a total of 89 students. Out of our own funds, we operate an after school program for 'latch key' children and help fund a cooperative education program with one school district. As well, we fund an 'advocate' for Indian students who is available on a 9 to 5 basis to help them with problems before they become too serious. An alternative school also addresses those with special needs."

Much of the adult education occurs outside the Tribal Education Centre at Little Six University, the training program operated by the human resources department of Little Six, Inc., the corporation owned by the tribe that operates the casino. It offers five curriculum areas: blackjack dealer training, customer service, leadership, cultural awareness, and wellness. Only the first is training in the usual sense, the remainder have much more to do with developing values and habits that are necessary for individuals to work successfully.

"The casino operates 24 hours a day, 7 days a week," the human resources director explained. "We can't take people off the line; customers expect and deserve good service. That's why our educational program is about affective as well as objective factors. Attitudes are important. Some of our recruits are from inner-city areas and aren't used to the demands of a regular job; because of affirmative action, some applicants expect positions that they're not ready for. We work to develop their self-esteem, first; our motto is 'more skills, real skills'. Sometimes it takes two or three tries, but if they keep at it they are practically guaranteed a position. Our training program, cooperative education programs with the school district, community education, adjunct instructors from community colleges, and continuing education from a local university all serve to provide opportunities for advancement."

World class standards that the casino sets for its employees creates stress for those employees used to working in more informal, local tourist operations, including the types of bingo halls that have operated on Indian reservations over the past decade. Although affirmative action policies which allow and indeed encourage employment of Indians are in effect, formal qualifications are critical. Little Six University helps to ensure that those from all backgrounds share in the opportunities created by the casino.

The casino has been open for less than a year, yet its impact on education, formal and non-formal, has been significant. The expansion and development of tribal educational resources for pre-schoolers to adults--resources that serve both Indians and non-Indians--is marked and promising. The staff training and development program, aimed at developing a world class operation, complements these developments. The economic impact on the Indian community, both in the immediate vicinity and more broadly, may well prove to be of greatest importance by providing the opportunities that pull individuals to develop socially, personally, and educationally.

The Canadian Situation

Native casino reckons police raid a sure bet - Court case would test whether Saskatchewan band had authority over gambling, chief says

White Bear Reserve, Sask. - Canada's first native-run gambling casino is being operated in the expectation that it will soon be closed by the police. The Bear Claw Casino on the White Bear Reserve has been in business for two weeks in defiance of the Saskatchewan government, which says it is illegal.

White Bear Chief Bernard Shepherd, seemingly satisfied with what he describes as an economic development project, said he hopes that he is wrong, but he expects the RCMP [Royal Canadian Mounted Police] to raid the casino in a matter of days, if not hours. . . . Last month, RCMP and tribal police in Manitoba carried out raids on five reserves, seizing 46 slot machines and other gaming equipment. Several native people were charged with illegal gaming along with two Chicago men who supplied them with equipment."

16

"This is just Phase 1," Mr. Shepherd said, confidently predicting that if the casino is closed, the courts ultimately will find that the band has the authority to run its own gambling operations. Then, he said, the band will consider suing the Saskatchewan government for lost gaming revenue. . . . "This is going to test our jurisdiction," Mr. Shepherd said, adding that the questions to be resolved is whether Indian bands are required to remit any gaming revenues to the province. "That's the very bottom line on this. The government knows they've lost the right to tax on reserves in Saskatchewan."

Like native people in other parts of the country, the White Bear Band believes that it has the right to run gaming operation on its "sovereign" territory. A 1985 agreement with the federal government gave the provinces authority over lotteries and gaming, but it was silent on the question of gambling on reserves. Native people argue that Ottawa [the federal government] has a fiduciary obligation to care for aboriginal people and cannot cede it to the provinces.

Like Manitoba, Saskatchewan has said it is ready to allow more Indian gaming, but only under the authority of the provincial gaming commission. However, native people complain that the provinces consider Indian gaming to be [a] threat to the government's monopoly over gambling revenue and its taxation authority (Roberts, 1993).

My final research question concerned the implication of the Mdewakanton band's experience for Indian groups in Canada. Canadians often suggest that social trends hit Canada about a decade after they do the United States, and the recent article from *The [Toronto] Globe and Mail* quoted above suggests, the issue of native rights and sovereignty is lagging behind developments in the U.S. The *Globe's* writer use of a bit of sarcasm (the Chief's "seemingly satisfied with what he describes as an economic development project" and his placing of quotation marks around the sovereign in sovereign government) indicates a somewhat negative perspective on the matter. (See also, Corcoran, 1992).

Other commentators seem more sympathetic. John Dafoe (1993), also in *The Globe*, writes,

Indian communities throughout the province [of Manitoba] see gambling as the essential money faucet that will finally break the 125-year cycle of tutelage and dependence and provide native bands with the funds they need to develop self-sufficient economies. Native leaders look to Minnesota, where Indian bands have turned gambling halls into huge moneys-spinners. The Mystic Lake Casino, run by the Shakopee Reserve [sic] near Minneapolis, earns the band \$25-million a year and has helped pay for new homes for the reserve residents, for paved roads, 100-per-cent employment and investment in new industry.

It is no wonder that leaders of Manitoba reserves, facing virtually 100-per-cent unemployment, inadequate housing and services, and an almost total lack of economic development, see the Minnesota experience as their key to economic emancipation.

A complex amendment to the Canadian Constitution, the Charlottetown Agreement, might have settle this issue had it not been rejected in a 1992 national referendum. The agreement included within it recognition of Indians' inherent right of self- government. As it stands, the question has not been resolved in law nor practice, although several provinces have negotiated agreements about gaming with some Indian bands or are in the process of doing so (Platiel, 1992). These agreements are bilateral between the provincial governments and Indian tribal authorities, and restrict Indians to relative modest gaming operations compared to what the provinces themselves operate or plan to operate (Mackie, 1992). As far as the education of Canada's native youth are concerned, it is too soon too suggest it will benefit from gaming, as Indian education has in the United States.

Opposing Forces

Not everyone views the success of gaming on tribal lands in the United States to be a blessing. The opposition to continued high-stakes gaming on tribal lands is led by the Nevada Resort Association. It argues that there should be a "level playing field", with gaming operations on Indian lands no more extensive than those permitted for commercial purposes in a state. This position was reflected in an amendment to the 1988 Indian Gaming

18

part, seems to have ceded control of the issue of Indian gaming to the ten provinces in fact, if not in law. Provincial governments would likely bridle at federal interference in the matter. But, as in the United States, the Canadian federal government has a relationship of trust with its native peoples. The moderation which Canadians hold to be a central element of their character may serve to resolve matters in a judicious manner. However, fear of forces unknown may yet make the question of native self-governance into a nation-testing issue for all of Canada.

Notes

1. A different account, on page 353 of the same source, states that 400 whites were killed and that 38 Indians were "executed in a mass hanging." "AH" refers to "American Heritage"; see full reference below.
2. Remarks shown in quotation marks are paraphrased based on notes taken October 30-November 3, 1992 in interviews with five individuals associated with the casino and tribal operations.
3. Reference is to Special Edition - Mystic Lake Casino brochure.

References

- American Heritage (1961) *The American Heritage Book of Indians*, American Heritage Publishing Co., Inc. Distributed by Simon & Schuster, Inc.
- Anquoe, B. (October 23, 1992). Bill could destroy gaming. *Native American Press*, Section 2.
- Cabazon Band of Mission Indians v. County of Riverside, State of California and Ben Clark*, 783 F.2d 900 (9th Cir. 1986).
- California, et al. v. Cabazon Band of Mission Indians et al.*, 107 S.Ct. 1093 (1987).
- Castle, S. R. (1992) *Native American Students: Reemergence of Tribal*

- Influence on Educational Processes. In P. Anthony and S. L. Jacobson, *Helping At-Risk Students: What Are the Educational and Financial Costs?*, Newbury Park, CA: Corwin Press, Inc., pp. 66-92.
- Corcoran, T. (May 20, 1992) Gambling eagle soars toward Canada. *The Globe and Mail*, p. B2.
- Dafoe, J. (January 23, 1993) Natives see bingos and casinos as key to economic emancipation. *The Globe and Mail*, p. D2.
- Indian Gaming Regulatory Act*, Pub. L. 100-497, 102 Stat. 246. Passed by the 100th United States Congress, October 17, 1988.
- Mackie, R. (September 3, 1992) Ontario may open gambling casinos by early next year - Cash-strapped NDP hopes gaming will help pay for new programs. *The Globe and Mail*, p. A7.
- Mueller, M. I. K. & Mueller, V. D. (1992) Federal Legislation Affecting American Indian Students. In P. Anthony and S. L. Jacobson, *Helping At-Risk Students: What Are the Educational and Financial Costs?*, Newbury Park, CA: Corwin Press, Inc., pp. 66-92.
- Native American Press (October 16, 1992) Attorney for Indian tribes says proposal would gut gambling law, *Native American Press*, p. 3.
- Platier, R. (November 13, 1992) Natives gamble on self-government right - Casinos planned in five provinces from New Brunswick to British Columbia. *The Globe and Mail*, p. A8.
- Roberts, D. (March 12, 1993). Native casino reckons police raid a sure bet - Court case would test whether Saskatchewan band has authority over gambling, chief says. *The Globe and Mail*, p. A8.